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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,395	07/05/2006	Włodzimirz Rutynowski	541114-0325045(POL)0010-US	1920

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EXAMINER

HUANG, LIAN

ART UNIT

PAPER NUMBER

3731

MAIL DATE

DELIVERY MODE

05/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/565,395

Applicant(s)

RUTYNOWSKI, WLODZIMIERZ

Examiner

LIAN HUANG

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 23 January 2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites the limitation "the breaking edge" in line 5. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 3 recites the limitation "the lower portions" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 4 recites the limitation "the first end" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1-7 rejected under 35 U.S.C. 103(a) as being unpatentable over **Thorne, Jr. et al. (US 6,359,265 B1)** in view of **Czernicki et al. (US 5,356,420)**.

Regarding claim 1, Thorne, Jr. et al. disclose a puncturing device built of a housing (300, see figures 19 and 20), wherein a push button (340) and a puncturing needle (90') is disposed, wherein the push button has arms (400, see figure 22) to guide the push button inside the housing, and a driving spring (350), one end of which is linked to the push button, and the other end drives the puncturing needle, and the housing comprises at least one return spring (420, where "spring" is taken to be an elastic device) connected to the arms (400) of the push button (340), while the puncturing needle (90') has at least one side jut (354), which is positioned inside the device between the return spring and the other end of the driving spring (figures 23 and 17-20) but fail to teach the puncturing needle having breakable wings and a corresponding breaking edge in the housing.

However, Czernecki et al. teach a needle with breakable wings (11) which rest against a breaking edge of the housing (12; please compare figures 1 and 2).

It would be obvious to one of ordinary skill in the art at the time of the invention to provide the device of Thorne, Jr. et al. with breakable wings as taught by Czernecki, since Czernecki states that such a modification would and ensure that the device is not reused (column 1, lines 59-62) and maintain the tip in a stable position until the push button is activated with a certain force (column 2, lines 29-33 and 35-38).

Regarding claim 2, Thorne, Jr. et al. disclose a device as stated above characterized by two return springs (420, where "spring" is taken to be an elastic device) each of which is connected to one arm (400) of the push button (340), and has

two side juts (354), each of which is positioned inside the device between one of the return springs (420) and the other end of the driving spring (350).

Regarding claim 3, Thome, Jr. et al. disclose a device as stated above wherein the return springs (420) are connected approximately perpendicularly to the lower portions of the arms (400) of the push button (340; figure 22).

Regarding claim 4, Thome, Jr. et al. disclose a device as stated above wherein the first end of the driving spring (350) is connected with the push button face (340; figures 17-20).

Regarding claim 5, Thome, Jr. et al. disclose a device as stated above wherein the other end of the driving spring (350) ends with a pusher (352) for the puncturing needle (90').

Regarding claim 6, Thome, Jr. et al. disclose a device as stated above wherein the driving spring (350) is shaped like the letter "S" (figures 17-20).

Regarding claim 7, Thome, Jr. et al. disclose a device as stated above wherein the return springs (420) are flat springs (figure 22).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited for disclosing related limitations of the applicant's claimed and disclosed invention:

US 5755733 A	Morita; Susumu
US 20080103517 A1	Takemoto; Masafumi et al.
US 5628765 A	Morita; Susumu
US 20050222599 A1	Czerniecki, Andrzej et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIAN HUANG whose telephone number is (571)270-3987. The examiner can normally be reached on 7:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LH

/Todd E Manahan/
Supervisory Patent Examiner, Art Unit 3731